

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

PEDRO A. VINENT,

Plaintiff

vs.

D.S. DODRILL, WARDEN
et al.,

Defendants

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3:CV-02-1639
(CHIEF JUDGE VANASKIE)

ORDER

NOW, THIS 28th DAY OF SEPTEMBER, 2005, having carefully considered the Report and Recommendation of United States Magistrate Judge Malachy E. Mannion, proposing that the above-captioned matter pertaining to conditions of confinement be dismissed due to Plaintiff's unexcused failure to pursue administrative remedies within the appropriate time for doing so, thereby foreclosing Plaintiff from now pursuing prison administrative remedies;¹ and

observing that Plaintiff has not objected to the Report and Recommendation; and finding that, under these circumstances, review may properly be limited to ascertaining

¹The plaintiff has since been released from confinement and is residing in Orlando, Florida.

there is clear error in the proposed disposition of this matter, see Cruz v. Chater, 990 F. Supp. 375, 377-78 (M.D. Pa. 1998); and

finding no error, as Plaintiff's acknowledged failure to exhaust administrative remedies compels dismissal of this matter under 42 U.S.C. § 1997e, see Booth v. Churner, 532 U.S. 731, 739 (2001), **IT IS HEREBY ORDERED THAT:**

1. The Report and Recommendation of Magistrate Judge Mannion (Dkt. Entry 44) is **ADOPTED**.
2. Defendants' Motion for Summary Judgment (Dkt. Entry 38) is **GRANTED**.
3. The Clerk of Court is directed to enter judgment in favor of Defendants and against Plaintiff.
4. The Clerk of Court is further directed to mark this matter **CLOSED**.
5. Any appeal from this Order will be deemed frivolous, lacking in probable cause, and not taken in good faith.

s/ Thomas I. Vanaskie
Thomas I. Vanaskie, Chief Judge
Middle District of Pennsylvania